No. 1030—*L. C., Bangalore, dated the* 10*th December* 1938.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Money Lenders' Bill is published for general information with the statement of objects and reasons.

By Order,
A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

THE MONEY LENDERS' BILL.

Whereas it is expedient to regulate and control the transactions of money lending; it is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short Title. 1. (1) This Act may be called the Mysore Money Lenders' Act, 193 .

Application. (2) The Government may, by notification in the official Gazette, apply all or any of the provisions of this Act to any local area or to any class of money lenders from such date as may be specified in the notification and may also by a like notification exclude from the operation of this Act any local area or exempt any money lender or class of money lenders or any class of loans from the operation of all or any of the provisions of this Act.

Definitions. 2. In this Act unless there is anything repugnant in the subject or context:—

(1) "Court" includes a Court acting in the exercise of insolvency jurisdiction;

(2) "Interest" includes any sum by whatsoever name called in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expenses;

(3) "Loan" means an advance whether of money or in kind on interest made by a money lender and includes any transaction which in the opinion of the court is in substance a loan;

(4) "Money Lender" means an individual or an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in Mysore or outside Mysore, or a body which stands to any such body corporate in the relation of a subsidiary body and includes assignees and the legal representative of the money lender, who or which—

(i) carries on the business of money lending in the State; or

(ii) has his or its principal place of such business in the State;

and includes a pawn-broker;

(5) "Money lending business" or "Business of money lending" means the business of advancing loans either solely or in common with any business;

(6) "Pawn-broker" means a person who carries on the business of taking goods and chattels in pawn for a loan;

(7) "Pawnor" means a person delivering an article for pawn to a pawn-broker;

(8) "Prescribed" means prescribed by rules made under this Act;

(9) "Principal" means in relation to a loan the amount actually lent to the debtor;

(10) "Register" means a register of money lenders maintained under section 4; and

(11) "Registrar" means the registrar of money lenders appointed under section 3.

(12) "Secured loan" means a loan for which the money lender holds a mortgage, charge or lein on the property of the debtor or any part thereof as a security for that loan;

(13) "Unsecured loan" means any loan other than a secured loan.

CHAPTER II.

Registration and Licensing of Money Lenders.

Appointment of Registrars.

3. The Government may appoint registrars of money lenders for the purpose of this Act and may define

the local areas within which each registrar shall exercise his powers and perform his duties.

Register of money lenders.

4. The registrar shall maintain a register of money lenders in such form as may be prescribed.

Application for registration.

5. Every money lender shall apply in writing to the registrar for the area in which the principal place of business of such money lender is situated or in which he intends to carry on the business of money lending, to be registered as a money lender. The application shall contain such particulars as may be prescribed. On receipt of such application the registrar shall register the name of the applicant in the register unless disqualified under section 19. Any such person ceasing to carry on the business of money lending may, on application to the said authority, get his name struck off from the register.

Duration of registration.

6. A registration of a money lender shall be valid for three years from the date of registration but may be renewed from time to time. If renewed it shall have effect for three years from the date of the renewal.

Licence.

7. Every money lender whose name has been registered and to whom this section is made applicable shall annually take out a licence from the registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

Licence to be annual.

8. A licence granted under section 7, shall, unless sooner cancelled, be in force for one year from the date on which it is granted.

CHAPTER III.

Regulation of Accounts.

Duty to keep accounts.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before the commencement of this Act, regularly record and maintain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

Receipt to be given.

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and if necessary stamped.

Furnishing statement of account.

11. (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid, on payment of the prescribed fee, furnish to the debtor or if he so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and showing the amount which remains outstanding on account of the principal and of interest :

Provided that where a money lender has complied with the demand the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.

Duty of pawn-brokers to keep accounts.

12. (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely :—

(*a*) a full and detailed description of the article or of each of the articles taken in pawn,

(*b*) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

(2) A true copy of the entries in such account shall be delivered by the pawn-broker to the pawnor at the time of the pawn on tender of the prescribed fee.

Inspection by Registrar

13. (1) The registrar may inspect or cause to be inspected by any officer subordinate to him the accounts required to be maintained by a money lender under this Act.

(2) The money lender shall be bound to produce all books of account for inspection.

(3) If from such an inspection it appears that such money lender has committed any offence under this Act, the registrar may cause proceedings to be instituted against him in the court having jurisdiction.

CHAPTER IV.

Provisions relating to suits in respect of loans.

The maximum rates of interest to be decreed.

14. Notwithstanding anything contained in any law for the time being in force, no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rates exceeding 9 per centum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

Maximum rate of compound interest.

15. No money lender shall recover by suit interest of any kind at a rate exceeding 6 per centum per annum in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.

What is excessive interest under Usurious Loans Act.

16. Where the interest charged is in excess of the rates prescribed as maximum in sections 14 and 15, the court shall presume for the purpose of section 3 of the Usurious Loans Act that the interest charged is excessive and that the transaction was substantially unfair.

Arrears of interest not to exceed principal.

17. No court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

Penalty for non-compliance with section 9 or section 12.

18. Notwithstanding anything contained in any enactment for the time being in force, (*a*) if in any suit or proceeding relating to a loan the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs;

(*b*) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

CHAPTER V.

Penalties.

Court's power to suspend or cancel licence.

19. (1) Where in any suit brought in respect of a loan by a money lender, the court is of opinion that the

money lender has been guilty of fraud or of any contravention of the provisions of this Act or of any rule made thereunder or is otherwise unfit to carry on the business of money lending, the court may order that the licence held by such money lender or his registration be suspended for such time as the court may think fit or cancelled and may also declare such money lender disqualified from obtaining a licence or being registered under this Act either permanently or for such period as it thinks fit.

(2) The court shall cause the particulars of any order made under this section to be endorsed on the licence held by the money lender against whom such order is made and shall cause copy of its order to be sent to the registrar by whom the licence was granted or the registration was made for the purpose of entering such particulars in the Register.

(3) Every holder of a licence shall, on being called upon by the court to do so, produce the licence within such time as may be directed by the court.

(4) Any person whose licence or registration has been cancelled or suspended in accordance with the provisions of this section shall, during the period for which such order of cancellation has effect or during the period of suspension, as the case may be, be disqualified from being registered or obtaining a licence.

Penalty for contravention of provisions.

20. Whoever makes default in complying with or acts in contravention of any provision of this Act shall, if no specific penalty has been provided in this Act, be punishable for the first offence with fine which may extend to Rs. 200 and for a second or subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to Rs. 500 or with both and shall also be liable to have his registration and licence cancelled.

CHAPTER VI.

Miscellaneous.

Power to make rules.

21. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the form of the register mentioned in section 4;

(ii) the form of the application mentioned in section 5 and the particulars to be contained therein;

(iii) the form and conditions of the licence mentioned in section 7, the fee therefor and the manner of payment of the fees;

(iv) the form, language, script and numerals to be used in the accounts required to be kept under section 9;

(v) the form of the statement of account to be furnished under section 11 and the details to be included therein and the fee to be paid for such statement; and

(vi) the fee to be paid for a copy of the entries in a pawn-broker's account to be furnished under section 12.

22. Nothing contained in this Act shall affect the provisions of the Mysore Agriculturists Relief Act, 1928 or the powers of a court under the Usurious Loans Act, 1923, except to the extent specified in section 16.

23. The Government may, by notification in the official Gazette, apply all or any of the provisions of Chapters III and IV to the loan transactions of creditors other than money lenders.

Statement of objects and reasons.

The question of introducing legislation for the control of money lending business in order to protect ignorant debtors against fraud and extortion has been under consideration of Government for some time past. The desirability of legislation in the matter was also being urged in the Representative Assembly and Legislative Council. Some leading non-official gentlemen were consulted by Government in 1933 with a view to decide upon the desirability and the form of the legislation. They were generally in favour of legislation and their suggestions have been adopted to the extent they were found suitable. The Royal Commission on Agriculture, the Royal Commission on Labour and the Banking Enquiry Committee

have all recommended legislation for control of money lending business. Certain of the British Indian Provinces have already taken or are taking action in the matter.

The existing Acts affecting money lending, *viz.*, the Usurious Loans Act and the Agriculturists Relief Act are not sufficient to give relief to the debtors. They touch on certain portions of the law relating to money lending and the latter affects only a certain class of debtors *viz.*, agriculturists. The present Bill will apply to money lending in general. The business of money lending as carried on by certain classes of money lenders, is defective. Regular accounts are not ordinarily kept and receipts are not some times given for money paid by the debtors. The interest charged is also high. It is therefore proposed to introduce a bill for the control of the business of money lending in the interest of many ignorant and illiterate debtors. A reasonable maximum rate of interest that may be allowed by courts is fixed. Provision is made for the safe conduct of the business by requiring proper maintenance of accounts and giving opportunities to the debtors to ascertain periodically the state of the accounts. Provision is also made for registration and licensing of money lenders. At the same time care is taken to see that the Bill does not unnecessarily harass money lenders and restrict facilities for credit.

Penalties for non-compliance of the provisions of the Bill are not hard but reasonable and just sufficient to meet the requirements of the case.

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